

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----	X
AVNER MALOUL and ALLEN LOWY,	:
	:
Plaintiffs,	:
	:
v.	:
	:
IVAN BERKOWITZ, GREAT COURT	:
CAPITAL, LLC, SD PARTNERS, LLC, UTIX	:
GROUP, INC., VSUS TECHNOLOGIES, INC.	:
and SUNSET BRANDS, INC.,	:
	:
Defendants.	:
-----	X

Case No. 07 CIV 8525 (LBS)  
ECF CASE

**DECLARATION OF  
SCOTT J. PASHMAN  
REGARDING DELAYED  
FILING DUE TO  
TECHNICAL DIFFICULTIES**

SCOTT J. PASHMAN hereby declares as follows:

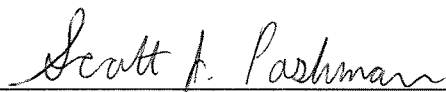
1. I am associated with Cooley Godward Kronish LLP, counsel to defendant Utix Group, Inc. in the above-entitled action.
2. On December 28, 2007, I was prevented from filing the document entitled *Answer and Affirmative Defenses of Utix Group, Inc.*, dated December 28, 2007 ("Utix Answer"), due to unexpected technical difficulties that caused the Court's electronic filing system (ECF) to be inaccessible throughout the day on December 28.
3. I confirmed the existence of the technical difficulties regarding the ECF system on December 28 by reviewing a Notice to the Bar posted on the Court's website and through a telephone call to the ECF Help Desk.
4. On December 28, 2007, I served copies of the Utix Answer by electronic mail on all counsel of record in this case.
5. Additionally, on December 28, 2007, I attempted to electronically file the Utix Answer through the ECF system, and received a receipt indicating that the document had been successfully filed. A copy of the filing receipt is attached as Exhibit A.

6. However, on December 29, 2007, when the ECF system was restored, there was no longer any indication on the docket for this case that the Utix Answer had actually been filed.

7. Accordingly, I respectfully request that the Court permit the filing of the Utix Answer by ECF on December 29, 2007.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 29, 2007

  
\_\_\_\_\_  
Scott J. Pashman (SP-7620)

**EXHIBIT A – RECEIPT OF ELECTRONIC FILING ON DECEMBER 28, 2007**

## Answers to Complaints

1:07-cv-08525-LBS Maloul et al v. Berkowitz et al

ECF

### U.S. District Court

United States District Court for the Southern District of New York

### Notice of Electronic Filing

The following transaction was entered by Pashman, Scott on 12/28/2007 at 5:51 PM EST and filed on 12/28/2007

**Case Name:** Maloul et al v. Berkowitz et al

**Case Number:** 1:07-cv-8525

**Filer:** Utix Group, Inc.

**Document Number:** 12

#### Docket Text:

**ANSWER to Complaint. Document filed by Utix Group, Inc..(Pashman, Scott)**

**1:07-cv-8525 Notice has been electronically mailed to:**

Eric B. Fisher efisher@mjbllc.com

Steven Richard Popofsky spopofsky@gskny.com

**1:07-cv-8525 Notice has been delivered by other means to:**

The following document(s) are associated with this transaction:

**Document description:**Main Document

**Original filename:**n/a

**Electronic document Stamp:**

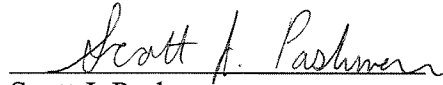
[STAMP dcecfStamp\_ID=1008691343 [Date=12/28/2007] [FileNumber=4123055-0] [2c65c6217682ca7b07314491c713953528fea6551f6e80dc7d5e5f24cce06a7d3ede4add4d3afe029db9c25620ea869cca8786959ad2f940b21ec2e27e78ef2]]

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing document entitled *Declaration of Scott J. Pashman Regarding Delayed Filing Due To Technical Difficulties*, dated December 29, 2007, was served on on December 29, 2007, via the Court's ECF system upon:

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*Attorneys for Defendants Ivan Berkowitz, Great Court Capital, LLC and SD Partners, LLC*

  
\_\_\_\_\_  
Scott J. Pashman